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SENATE BILL 22

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ELECTRONIC REPORTING AND  
RETRIEVAL OF INFORMATION; AMENDING THE CAMPAIGN REPORTING ACT;  
MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 1-19-26 NMSA 1978 (being Laws 1979,  
Chapter 360, Section 2, as amended) is amended to read:

"1-19-26. DEFINITIONS. -- As used in the Campaign Reporting  
Act:

A. "advertising campaign" means an advertisement or  
series of advertisements used for a political purpose and  
disseminated to the public either in print, by radio or  
television broadcast or by any other electronic means,  
including telephonic communications, and may include direct or  
bulk mailings of printed materials;

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1           B. "anonymous contribution" means a contribution  
2 the contributor of which is unknown to the candidate or his  
3 agent or the political committee or its agent who accepts the  
4 contribution;

5           C. "bank account" means an account in a financial  
6 institution located in New Mexico;

7           D. "campaign committee" means two or more persons  
8 authorized by a candidate to raise, collect or expend  
9 contributions on the candidate's behalf for the purpose of  
10 electing him to office;

11           E. "candidate" means an individual who seeks or  
12 considers an office in an election covered by the Campaign  
13 Reporting Act, including a public official, who either has  
14 filed a declaration of candidacy or nominating petition or:

15                   (1) for a non-statewide office, has received  
16 contributions or made expenditures of one thousand dollars  
17 (\$1,000) or more or authorized another person or campaign  
18 committee to receive contributions or make expenditures of one  
19 thousand dollars (\$1,000) or more for the purpose of seeking  
20 election to the office; or

21                   (2) for a statewide office, has received  
22 contributions or made expenditures of two thousand five hundred  
23 dollars (\$2,500) or more or authorized another person or  
24 campaign committee to receive contributions or make  
25 expenditures of two thousand five hundred dollars (\$2,500) or

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1 more for the purpose of seeking election to the office or for  
2 candidacy exploration purposes in the years prior to the year  
3 of the election;

4 F. "contribution" means a gift, subscription, loan,  
5 advance or deposit of [~~any~~] money or other thing of value,  
6 including the estimated value of an in-kind contribution, that  
7 is made or received for a political purpose, including payment  
8 of a debt incurred in an election campaign, but does not  
9 include the value of services provided without compensation or  
10 unreimbursed travel or other personal expenses of individuals  
11 who volunteer a portion or all of their time on behalf of a  
12 candidate or political committee, nor does it include the  
13 administrative or solicitation expenses of a political  
14 committee that are paid by an organization that sponsors the  
15 committee;

16 G. "deliver" or "delivery" means to deliver by  
17 certified or registered mail, [~~by~~] telecopier, electronic  
18 [~~mail~~] transmission or facsimile or by personal service;

19 H. "election" means any primary, general or  
20 statewide special election in New Mexico and includes county  
21 and judicial retention elections but excludes municipal, school  
22 board and special district elections;

23 I. "election year" means an even-numbered year in  
24 which an election covered by the Campaign Reporting Act is  
25 held;

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1 J. "expenditure" means a payment, transfer or  
2 distribution or obligation or promise to pay, transfer or  
3 distribute any money or other thing of value for a political  
4 purpose, including payment of a debt incurred in an election  
5 campaign or pre-primary convention, but does not include the  
6 administrative or solicitation expenses of a political  
7 committee that are paid by an organization that sponsors the  
8 committee;

9 K. "person" means an individual or entity;

10 L. "political committee" means two or more persons,  
11 other than members of a candidate's immediate family or  
12 campaign committee or a husband and wife who make a  
13 contribution out of a joint account, who are selected,  
14 appointed, chosen, associated, organized or operated primarily  
15 for a political purpose; and political committee includes:

16 (1) political action committees or similar  
17 organizations composed of employees or members of any  
18 corporation, labor organization, trade or professional  
19 association or any other similar group that raises, collects,  
20 expends or contributes money or any other thing of value for a  
21 political purpose [~~provided that a political committee~~  
22 ~~includes~~];

23 (2) a single individual who by his actions  
24 represents that he is a political committee; and

25 (3) a person or an organization of two or more

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1 persons that within one calendar year expends funds in excess  
2 of [~~two thousand dollars (\$2,000)~~] five hundred dollars (\$500)  
3 to conduct an advertising campaign for a political purpose;

4 M. "political purpose" means influencing or  
5 attempting to influence an election or pre-primary convention,  
6 including a constitutional amendment or other question  
7 submitted to the voters;

8 N. "prescribed form" means a form or electronic  
9 format prepared and prescribed by the secretary of state;

10 O. "proper filing officer" means either the  
11 secretary of state or the county clerk as provided in Section  
12 1-19-27 NMSA 1978;

13 P. "public official" means a person elected to an  
14 office in an election covered by the Campaign Reporting Act or  
15 a person appointed to an office that is subject to an election  
16 covered by that act;

17 Q. "reporting individual" means every public  
18 official, candidate or treasurer of a campaign committee and  
19 every treasurer of a political committee; and

20 R. "statement of exception" or "statement" means  
21 the prescribed form subscribed and sworn to by a candidate to  
22 indicate that the candidate does not intend to raise or expend  
23 the minimum amount required for the filing of a report of  
24 expenditures and contributions as provided in Section 1-19-33  
25 NMSA 1978. "

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1           Section 2. Section 1-19-27 NMSA 1978 (being Laws 1979,  
2 Chapter 360, Section 3, as amended) is amended to read:

3           "1-19-27. REPORTS REQUIRED--PROPER FILING OFFICER. --

4           A. Except for those candidates who file a statement  
5 of exception in an election year pursuant to Section 1-19-33  
6 NMSA 1978, all reporting individuals shall annually file with  
7 the proper filing officer a report of expenditures and  
8 contributions on a prescribed form. The report shall be filed  
9 on the second Monday in May pursuant to the provisions of  
10 Subsection A of Section 1-19-29 NMSA 1978.

11           ~~[B. The proper filing officer for filing reports of~~  
12 ~~expenditures and contributions or statements of exception is~~  
13 ~~the secretary of state for a public official in or a candidate~~  
14 ~~seeking any of the following offices:~~

15                     ~~(1) a statewide elective office;~~

16                     ~~(2) an elected judicial office in the judicial~~  
17 ~~department, except a magistrate; and~~

18                     ~~(3) an office representing a district composed~~  
19 ~~of more than one county, except that legislators representing~~  
20 ~~or candidates seeking to represent multicounty districts may~~  
21 ~~file reports of expenditures and contributions or statements of~~  
22 ~~exception with either the secretary of state or with the county~~  
23 ~~clerk in the county in which they reside.~~

24           ~~C. The proper filing officer for filing reports of~~  
25 ~~expenditures and contributions or statements of exception is~~

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1 ~~the county clerk for a public official in or a candidate~~  
2 ~~seeking any of the following offices:~~

3 ~~(1) an elective county office;~~

4 ~~(2) a magistrate; and~~

5 ~~(3) a state legislative office elected from a~~  
6 ~~district located wholly within one county.~~

7 ~~D.]~~ B. The proper filing officer for filing reports  
8 of expenditures and contributions by a political committee is  
9 the secretary of state.

10 C. The proper filing officer for filing reports of  
11 expenditures and contributions or statements of exception is  
12 the secretary of state for all public officials.

13 D. The secretary of state shall develop or contract  
14 for services to develop an electronic reporting system for  
15 receiving and for public inspection of reports of expenditures  
16 and contributions and statements of exception to the Campaign  
17 Reporting Act. The electronic reporting system shall:

18 (1) enable a person to file reports on-line by  
19 filling out forms on the secretary of state's web site; and

20 (2) provide for encrypted transmissions."

21 Section 3. Section 1-19-29 NMSA 1978 (being Laws 1993,  
22 Chapter 46, Section 5, as amended by Laws 1997, Chapter 12,  
23 Section 1 and also by Laws 1997, Chapter 112, Section 3) is  
24 amended to read:

25 "1-19-29. TIME AND PLACE OF FILING REPORTS. --

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1           A. Annually, all reporting individuals shall file  
2 with the proper filing officer by 5:00 p.m. on the second  
3 Monday in May a report of all expenditures made and  
4 contributions received on or before the first Monday in May and  
5 not previously reported. The report shall be filed annually  
6 until the reporting individual's bank account has been closed  
7 and the other provisions specified in Subsection E of this  
8 section have been satisfied.

9           B. In an election year, in addition to the May  
10 report provided for in Subsection A of this section, all  
11 reporting individuals, except for persons who file a statement  
12 of exception pursuant to Section 1-19-33 NMSA 1978 and except  
13 for public officials who are not candidates in an election that  
14 year, shall file reports of all expenditures made and  
15 contributions received according to the following schedule:

16                   (1) by 5:00 p.m. on the second Monday in  
17 October, a report of all expenditures made and contributions  
18 received on or before the first Monday in October and not  
19 previously reported;

20                   (2) by 5:00 p.m. on the Thursday before a  
21 primary, general or statewide special election, a report of all  
22 expenditures made and contributions received by 5:00 p.m. on  
23 the Tuesday before the election. Any contribution or pledge to  
24 contribute that is received after 5:00 p.m. on the Tuesday  
25 before the election and that is for five hundred dollars (\$500)

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1 or more in a legislative or non-statewide judicial election, or  
2 two thousand five hundred dollars (\$2,500) or more in a  
3 statewide election shall be reported to the proper filing  
4 officer either in a supplemental report on a prescribed form  
5 within twenty-four hours of receipt or in the report to be  
6 filed by 5:00 p.m. on the Thursday before a primary, general or  
7 statewide special election, except that any such contribution  
8 or pledge to contribute that is received after 5:00 p.m. on the  
9 Friday before the election may be reported by 12:00 noon on the  
10 Monday before the election; and

11 (3) by 5:00 p.m. on the thirtieth day after a  
12 primary, general or statewide special election, a report of all  
13 expenditures made and contributions received on or before the  
14 twenty-fifth day after the election and not previously  
15 reported.

16 C. Notwithstanding the other provisions of this  
17 section, the report due on the thirtieth day after an election  
18 need be the only report filed after the annual May report if  
19 the candidate is not opposed in the election and if the report  
20 includes all expenditures made and contributions received for  
21 that election and not previously reported.

22 D. A report of expenditures and contributions filed  
23 after a deadline set forth in this section shall not be deemed  
24 to have been timely filed.

25 E. Each reporting individual shall file a report of

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1 expenditures and contributions annually pursuant to the filing  
2 schedule set forth in this section, regardless of whether any  
3 expenditures were made or contributions were received during  
4 the reporting period. Reports shall be required until the  
5 reporting individual delivers a report to the proper filing  
6 officer stating that:

7 (1) there are no outstanding campaign debts;

8 (2) all money has been expended in accordance  
9 with the provisions of Section 1-19-29.1 NMSA 1978; and

10 (3) the bank account has been closed.

11 F. Each treasurer of a political committee shall  
12 file a report of expenditures and contributions annually  
13 pursuant to the filing schedule set forth in this section until  
14 the treasurer files a report that affirms that the committee  
15 has dissolved or no longer exists and that its bank account has  
16 been closed.

17 G. A reporting individual who is a candidate within  
18 the meaning of the Campaign Reporting Act because of the amount  
19 of contributions he receives or expenditures he makes and who  
20 does not ultimately file a declaration of candidacy or a  
21 nominating petition with the proper filing officer shall  
22 nevertheless file a report, not later than the second Monday in  
23 May for a primary election or the second Monday in October for  
24 a general election, of all contributions received and  
25 expenditures made on or before the first Monday in May for a

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1 primary election or the first Monday in October for a general  
2 election, and not previously reported.

3 H. Reports required by this section shall be filed  
4 electronically by all reporting individuals.

5 I. Reporting individuals may apply to the secretary  
6 of state for exemption from electronic filing in case of  
7 hardship, which shall be defined by the secretary of state."

8 Section 4. Section 1-19-32 NMSA 1978 (being Laws 1979,  
9 Chapter 360, Section 8, as amended) is amended to read:

10 "1-19-32. INSPECTION OF PUBLIC RECORDS. --

11 A. Each of the following documents is a public  
12 record open to public inspection during regular office hours in  
13 the office in which the document was filed or from which the  
14 document was issued:

- 15 (1) a statement of exception;
- 16 (2) a report of expenditures and  
17 contributions;
- 18 (3) an advisory opinion issued by the  
19 secretary of state;
- 20 (4) a document specified as a public record in  
21 the Campaign Reporting Act; and
- 22 (5) an arbitration decision issued by an  
23 arbitration panel and filed with the secretary of state.

24 B. Each public record described in Subsection A of  
25 this section shall be retained by the state for five years and

1 may be destroyed five years after the date of filing unless a  
2 legal action or prosecution is pending that requires the  
3 preservation of the public record.

4 C. The secretary of state shall provide for  
5 electronic access to reports of expenditures and contributions  
6 and statements of exception submitted electronically by  
7 reporting individuals. Electronic access shall include access  
8 via the internet and shall be in an easily searchable format."

9 Section 5. APPROPRIATION. -- Eighty thousand dollars  
10 (\$80,000) is appropriated from the general fund to the office  
11 of the secretary of state for expenditure in fiscal year 2004  
12 to design and develop an electronic campaign reporting system.  
13 Any unexpended or unencumbered balance remaining at the end of  
14 fiscal year 2004 shall revert to the general fund.

15 Section 6. EFFECTIVE DATE. -- The effective date of the  
16 provisions of Sections 2 and 3 of this act is January 1, 2004.